

MEMORANDUM OF UNDERSTANDING (“MOU”)  
AMONG THE DEPARTMENT OF WATER RESOURCES,  
THE UNITED STATES BUREAU OF RECLAMATION,  
THE WESTERN AREA POWER ADMINISTRATION,  
THE CALIFORNIA DEPARTMENT OF FISH AND GAME,  
THE UNITED STATES FISH AND WILDLIFE SERVICE,  
THE GLENN-COLUSA IRRIGATION DISTRICT,  
THE TEHAMA-COLUSA CANAL AUTHORITY,  
AND OTHER CALFED AGENCIES AND LOCAL WATER INTERESTS  
PURSUANT TO THE DIRECTIVE WITH RESPECT TO  
SITES RESERVOIR CONTAINED IN THE  
CALFED BAY-DELTA PROGRAM PROGRAMMATIC  
RECORD OF DECISION, AUGUST 28, 2000

Pursuant to the directive contained in the June 9, 2000 Framework for Action and the CALFED Bay-Delta Program Programmatic Record of Decision, August 28, 2000 (“ROD”) to develop a joint program with respect to Sites Reservoir through an MOU among the Department of Water Resources (“DWR”), the United States Bureau of Reclamation (“USBR”), the Western Area Power Administration (“WAPA”), the California Department of Fish and Game (“CDFG”), the United States Fish and Wildlife Service (“USFWS”), the Glenn-Colusa Irrigation District (“GCID”), and the Tehama-Colusa Canal Authority (“Authority”), and other CALFED agencies and local water interests enter into this MOU as follows:

**1.0     General**

1.1     Record of Decision. The ROD includes strong commitments to proceed with the review and planning of potential North of Delta off-stream surface storage projects, including specifically the Sites Reservoir. The CALFED ROD for the Final Programmatic Environmental Impact Statement and Report reflects the State and federal CALFED agencies’ approval of a long-term comprehensive plan to restore the ecological health and improve water management for beneficial uses of the Bay-Delta system and describes a strategy for implementing that plan in the first seven years. The long-term plan commits CALFED through its Water Management Strategy (including the Integrated Storage Investigation) to continue to evaluate surface water and groundwater storage, identify acceptable project-specific locations, and initiate permitting, National Environmental Policy

Act (“NEPA”) and California Environmental Quality Act (“CEQA”) documentation, and construction if all conditions are satisfied. The ROD calls for CALFED agencies to join local partners and to enter into an MOU with local water interests to evaluate Sites Reservoir as a potential project to enhance water management flexibility in the Sacramento Valley.

1.2 The Need for Increased Storage. The ROD finds that expanding water storage capacity is critical to the successful implementation of all aspects of the CALFED program. Many local water interests within the Sacramento Valley share this view. In this context, the ROD provides that CALFED Agencies are committed to increase storage through the development of acceptable and feasible projects, noting that storage projects are not developed in isolation but, rather, as part of an overall water management strategy.

1.3 Sites Reservoir. One of the two potential storage projects identified in the ROD for further study is the Sites Reservoir. The ROD describes the Sites Reservoir project as having a capacity of up to 1.9 million acre-feet that could reduce water diversion on the Sacramento River during critical fish migration periods, greatly increase the reliability of supplies for a significant portion of the Sacramento Valley, and provide storage and operational benefits for other CALFED programs including Delta water quality and the Environmental Water Account (“EWA”). (See ROD at p. 45.) Before a decision to construct the Sites Reservoir is made, additional technical work and further environmental review will be required. In addition, the development of appropriate cost-sharing agreements will need to be completed.

1.4 Joint Planning through MOU. The ROD directs that a joint planning program be developed through a Memorandum of Understanding with local water interests by October, 2000, and that all environmental review and planning documentation be completed by August, 2004. (See ROD at p. 45.) In this regard, the parties intend that this document, upon execution, be the MOU that will carry out the ROD directive to develop a joint planning program. The parties intend that this MOU will be followed by an agreement or agreements which addresses all additional aspects of the planning, including environmental review.

1.5 The Planning Process Will Be an Open Process. It is the intent of the parties to develop an open, transparent and inclusive planning process. This planning process will openly and objectively evaluate and discuss all relevant planning issues in order to determine if the Sites Reservoir can be implemented in an environmentally sound manner to enhance water management flexibility in the Sacramento Valley, thereby increasing water supply reliability for local water interests and benefiting CALFED programs, including Delta water quality and to provide water for the EWA.

1.6 Integrated Water Development and Management. The parties to this MOU, in addition to proceeding with the planning and environmental review of Sites Reservoir, jointly or separately seek to pursue a broader integrated water supply management and water development program. This program would seek to integrate the water supply from Sites Reservoir with other water resources available to the Sacramento Valley, including, but not limited to, existing surface water storage, water available through direct diversion, and water available through the extraction and conjunctive management of groundwater.

1.7 Biological Integration. The ROD directs that “the various CALFED Program elements, strategies, and projects [including Sites Reservoir] will be implemented in concert with the Ecosystem Restoration Program, Multi-Species Conservation Strategy, Environmental Water Account, and Water Quality Program to achieve the multiple goals of the CALFED Program. The CALFED Program will be implemented such that the net effects to species and their habitats are positive and are consistent and in conformance with State and Federal recovery plans.” (Biological Opinions; NMFS, p. 43; USFWS, p. 54.)

1.8 Area-of-Origin Protections. The CALFED agencies have taken into account their obligations to comply with ongoing commitments, such as the commitments included in the State’s area-of-origin laws. The CALFED agencies will undertake the planning for Sites Reservoir in a manner that complies with federal and state laws, including California’s water rights laws which recognizes the seniority of existing water rights and area-of-origin laws, applicable to their respective actions. The ROD specifically notes that a purpose of Sites Reservoir and integrated operation and management of water within the

Sacramento Valley is to increase water reliability within the Sacramento Valley. The goal, from a Sacramento Valley perspective, is to meet existing and future demand within the Sacramento Valley. Proceeding as outlined in this MOU should assist local interests in the Sacramento Valley in reaching the goal of meeting their existing and future water needs and should also develop additional supply that will benefit the environment, through water available to the EWA and through operational flexibility. In the same manner, water users in the Delta and that export water from the Delta should also be benefited.

## **2.0 Environmental Review and Permitting.**

2.1 Purpose and Need Statement. Within 120 days of the effective date of this MOU, the parties to the MOU will arrive at an agreed-upon statement of the “Purpose and Needs” for the Sites Reservoir which shall be utilized for all relevant purposes, including for the purposes provided for within CEQA/NEPA and for the purposes of undertaking and completing a Clean Water Act 404(b)(1) alternatives analysis. From the local water users’ perspective, a purpose of the Sites Reservoir Project is to develop an off-stream surface water storage project to be operated and managed in conjunction with local interests’ direct diversion water rights, groundwater and other surface water resources in order to provide an independent, reliable, affordable supply of irrigation, M&I and environmental water of suitable quality for reasonable beneficial uses by local interests within the Sacramento Valley.

2.2 Alternatives Analysis. The parties intend that a full and complete technical and environmental evaluation, including the environmental benefits of all North of Delta offstream storage alternatives including Sites Reservoir, be undertaken. This review will include a full, complete, and appropriate evaluation, pursuant to the Clean Water Act section 404(b)(1), NEPA, and CEQA of alternatives to the Sites Reservoir that would meet the agreed upon Purpose and Needs of the project.

2.3 Lead Agency and Scoping. At this time, it is anticipated that either DWR, GCID, or the Authority will be the lead agency for CEQA purposes and that the USBR shall be the lead agency for the purposes of NEPA. A final decision, in this regard,

however, will need to await the development of a final Purpose and Need statement for the project. The Planning Agreements referred to in Paragraph 5.2 will provide that a joint CEQA/NEPA document will be prepared. Initial scoping sessions associated with appropriate environmental review shall be initiated within ninety days of an agreement on the appropriate statement of “Purpose and Needs.”

### **3.0 Parties to MOU**

3.1 Local Water Interests. The ROD directs that the MOU be with local water interests (sometimes referred to in the ROD as “local partners”). For the purpose of this MOU, the term “local water interests” or “local partners” shall be deemed to be synonymous with the terms “local agencies” or “public agencies” as those terms are defined within Public Resources Code sections 21062 and 21063, where those agencies provide water as an essential part of their statutory or constitutional obligations. These local water interests are intended to include Special Districts, counties, and municipalities who provide water supply and who can, pursuant to the provisions of CEQA, directly participate in the CEQA process. They may also combine to form a Joint Powers Agency if that is determined to be desirable. These local water interests or local partners will participate directly in the planning work articulated within this MOU. Local water interests, for the purposes of this MOU, shall also include entities within the Sacramento Valley which hold the direct primary right to water or are associations of water users, but which are not “local agencies” or “public agencies” under CEQA.

3.2 Other Local Interests. The ROD provides that “local water interests” will be parties to the MOU, but does indicate that the planning process is to be subject to broad public participation. Local interests who are not “local water interests” as that term is defined in Paragraph 2.1 above, including, but not limited to, environmental advocacy groups or individuals, shall be encouraged to participate in the planning for Sites Reservoir through the public notice and outreach provisions of Paragraph 6 of this MOU.

3.3 GCID/Authority. For the purposes of this MOU, the Glenn-Colusa Irrigation District and the Tehama-Colusa Canal Authority will be the lead local agencies or

interests and this MOU shall become effective, from a local water interest perspective, upon the execution of the MOU by either of them. GCID and the Authority are selected as the lead local agency or interest participants to the MOU because of their proximity to the proposed Sites Reservoir and the potential availability at some times of the year of the GCID Main Canal and the Tehama-Colusa Canal, operated by the Authority, to divert and convey water into Sites Reservoir. Other local interests may participate in the programs identified in this MOU through the later execution of the MOU, as provided in Article 3.5.

3.4 CALFED. For the purposes of this MOU, the Department of Water Resources will be the lead state CALFED agency, and this MOU shall become effective, from CALFED's perspective, upon its execution by DWR. Other CALFED agencies may participate in the programs identified within this MOU through the execution of this MOU. For the purpose of this MOU, the USBR will be the lead federal CALFED agency. The parties believe that the participation of the United States Fish and Wildlife Service, United States National Marine Fisheries Service, Western Area Power Administration, and the California Department of Fish and Game will be particularly important as work under this MOU progresses. The term "CALFED Agencies" means both federal and state agencies as identified in the ROD.

3.5 Later Execution of MOU. As provided above, to the extent that any CALFED Agency or local water interest wishes to participate in the programs outlined in this MOU, they may do so by executing this MOU by counterpart. In executing this MOU, the executing parties will agree to the provisions of this MOU as if they had executed the document at the same time as DWR, CDFG, USBR, USFWS, WAPA, GCID and the Authority. Any CALFED entity wishing to execute this MOU shall contact DWR for this purpose. Any local water interest wishing to execute this MOU shall contact GCID for this purpose. DWR and GCID will notify all participating parties of the addition of parties to this MOU.

3.6 Joint Powers Authority or Other Form of Association. One or more local water interests may form a Joint Powers Authority ("JPA") or otherwise formally associate in order to better undertake the local water interest responsibilities outlined within

this MOU or within subsequent agreements. These local JPA's may include one or more mutual water companies. This MOU or subsequent agreements shall be modified or assigned, as appropriate, to accommodate this change in local interest status.

**4.0 Sites Reservoir Project.** All opportunities to store and manage surface water in the Sites Reservoir, as contemplated within the ROD, are collectively referred to as the "Sites Reservoir Project." The project will be located within or adjacent to GCID and Authority districts with at least a portion of the conveyance of water into the reservoir to be accomplished by wheeling water through GCID's Main Canal and/or potentially through a wheeling agreement with the USBR or others for use of the Tehama-Colusa Canal. Local water interests in addition to GCID and the Authority may be benefited through direct means, exchanges or other indirect means. The Sites Reservoir Project will also provide direct storage and operational benefits for other CALFED programs, including improvements in Delta water quality, and the availability of water for the EWA.

## **5.0 This MOU and Its Relationship to Future Agreements**

5.1 **Project Work.** This MOU shall constitute an understanding among DWR, USBR, CDFG, USFWS, WAPA, GCID, the Authority and other parties who may execute this MOU to proceed with aspects of project planning, including requisite environmental planning and environmental review for the Sites Reservoir Project. The parties recognize that one or more future binding agreements will be required to cover the details of remaining environmental and permitting work. These subsequent agreements shall be consistent with the principles contained in this MOU. Immediately upon execution of this MOU, DWR, USBR, WAPA, CDFG, USFWS, GCID, the Authority, and other local water interests that have executed this MOU shall review all work undertaken by DWR, to date, associated with a Sites Reservoir Project and together will agree, pursuant to the provisions of sub-paragraph 5.2 below, upon future work that will need to be undertaken. In this regard, DWR agrees that it will consult with GCID, the Authority, and other local water interests that are party to this MOU as to all substantive matters associated with the planning and related funding of the Sites Reservoir Project.

5.2 Future Binding Agreements – Planning. DWR, USBR, WAPA, CDFG, USFWS, GCID and the Authority, and other parties who may wish to be bound, shall, within thirty days of the execution of this MOU, begin negotiation of an agreement or agreements that shall cover how all remaining planning work for the Sites Reservoir Project shall be undertaken. This future negotiated agreement or agreements shall hereinafter be referred to collectively as the “Planning Agreements.”

5.3 Future Binding Agreements – Construction and Operation. If a decision is made to do so, after the completion of all relevant technical and environmental compliance work, DWR, USBR, WAPA, CDFG, USFWS, GCID and the Authority, and other parties who may wish to be bound, shall within six months of the completion of the environmental and planning work for the Sites Reservoir, which must be completed by August 2004 and if a decision is made to do so after the completion of all required technical and environmental compliance work, negotiate an agreement or agreements that shall cover all aspects of the construction and operation of the Sites Reservoir Project. This future negotiated agreement or agreements shall hereinafter be referred to collectively as the “Construction and Operations Agreements.”

5.4 Funding. Provisions of the future Planning Agreements and the Construction and Operations Agreements will address funding. The agreements shall provide for appropriate cost-sharing associated with relevant work. The exact nature and extent of the local cost share contribution shall be negotiated and include consideration of the elements described in Paragraph 7.7.

## **6.0 Outreach**

6.1 DWR. DWR will consult with non-participating CALFED Agencies and export water users with respect to the terms and conditions of this MOU, subsequent agreements and all other substantive matters relating to the planning, construction and operation of the Sites Reservoir Project.



6.2 GCID/Authority. The benefits associated with the Sites Reservoir Project are intended to be broad-based. How this can occur is one of the specific matters that will need to be dealt with in the future Planning Agreements. GCID and the Authority will consult with local water interests and local interests as to the terms of this MOU, subsequent agreements and all other substantive matters related to the planning, construction and operation of the Sites Reservoir Project.

6.3 Public Participation. In addition to what may be required under CEQA and NEPA, DWR, GCID and the Authority shall hold public meetings and provide an ability for non-participating local water interests and local interests to have input into the planning process. In this regard, it is the intent of the parties to develop an open, transparent and inclusive planning process. This planning process will openly and objectively evaluate and discuss all relevant planning issues in order to determine if the Sites Reservoir can be implemented in an environmentally sound manner to increase water supply reliability and provide storage and operational benefits for local interests and CALFED programs, including Delta water quality and to provide water for the EWA.

**7.0 Sites Reservoir Project – General Provisions.** The parties intend that the following provisions shall be addressed in future agreements associated with the Sites Reservoir Project, although how they are addressed is left to future negotiations after the completion of appropriate technical and environmental compliance work:

7.1 Sites Reservoir Project Working Relationships. The future Planning Agreements shall include provisions covering how DWR, USBR, CDFG USFWS, WAPA, GCID and the Authority will work with each other, local districts, affected entities and interests in the planning of the Sites Reservoir Project.

7.2 Operations and Management Responsibilities. The negotiation of future Planning Agreements shall address the intention of local water interests that they will have joint management responsibilities for the Sites Reservoir Project, which includes decisions pertaining to water operations. At this time it is anticipated that operation and management responsibilities shall be undertaken pursuant to an Operations and Management

Agreement (“O&M Agreement”) executed between local water interests and CALFED Agencies.

7.3 Other Agreements. All future Planning Agreements, including the O&M Agreement will be coordinated with other relevant local partnership and/or CALFED agreements and shall, as a consequence, be flexible enough to accommodate these other partnerships and agreements. The future agreements and O&M Agreement shall also contemplate and be flexible enough to be integrated with the results of the Sacramento Valley/United States Bureau of Reclamation Basin-Wide Water Management Plan MOU process.

7.4 Benefits and Burdens. The future Planning Agreements shall articulate the respective potential benefits and burdens of the parties with the parties’ respective roles, including control over project features, and water rights.

7.5 Water Allocation. The future Planning Agreements shall address specific allocations of water to meet project purposes including those allocations necessary to meet the needs of local interests.

7.6 Integration of Resources. The future Planning Agreements shall address operation of the Sites Reservoir Project and the use of water by local water interests as part of a cooperative process which involves local water interests relying, at any given time, on the total resource mix that may exist, including the conjunctive management of Sites Reservoir water, other surface storage rights or water supplies, direct diversion rights or water supplies, groundwater, water conservation and other management tools. This integrated operation may also include the transfer and exchange of water throughout the Sacramento Valley. The process envisioned within this MOU is intended to involve and benefit the broadest possible spectrum of project needs.

7.7 In-Kind Contributions. The future Planning Agreements shall address how local monetary and “in-kind” contributions can be made or cost shared, and how project benefits can be made affordable to local water interests.

**8.0 Other Related Contracts.** The future Planning Agreements and any other subsequent agreements shall be coordinated with all relevant water and power contracts with CALFED agencies.

**9.0 Ownership of Sites Reservoir.** The future Planning Agreements shall address ownership of the Sites Reservoir Project contemplating an “equity” or “ownership” position for all beneficiaries who have cost-shared aspects of the project, including GCID, the Authority, CALFED Agencies and other appropriate local interests.

**10.0 Counterparts.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be an original but all of which together shall constitute one and the same document.

**11.0 Contingent on Appropriation of Funds and Future Actions**

11.1 United States. The expenditure or advance of any money or the performance of any obligation of the United States under this MOU shall be contingent upon appropriation or allotment of funds in accordance with 31 U.S.C. 1341 (Anti-Deficiency Act). No liability shall accrue to the United States for failure to perform any obligation under this MOU in the event that funds are not appropriated or allotted.

11.2 State of California. The commitments and obligations under this MOU of the State of California are subject to the availability of appropriated funds. No liability shall accrue to the State of California for failure to perform any obligation under this MOU in the event that funds are not appropriated.

**12.0 Legal Consistency.** All provisions of this MOU are intended and shall be interpreted to be consistent with all applicable provisions of State and Federal law.

**13.0 Modification.** This MOU can be modified if agreed to in writing by all parties hereto.

**14.0    Notice.** All notices shall be sent to the following:

DWR:	Gary Hester Department of Water Resources 1416 – 9th Street, 3rd Floor Sacramento, CA 95814
USBR:	Lowell Ploss United States Bureau of Reclamation 2800 Cottage Way, E-1604 Sacramento, CA 95825
WAPA:	Nanette Englebrite Western Area Power Administration 114 Parkshore Drive Folsom, CA 95630
CDFG:	Frank Wernette California Department of Fish and Game 4001 North Wilson Way Stockton, CA 95205
USFWS:	Dan Buford United States Fish & Wildlife Service 2800 Cottage Way, Room W-2605 Sacramento, CA 95825
GCID:	O.L. “Van” Tenney, General Manager Glenn-Colusa Irrigation District P.O. Box 150 Willows, CA 95988

with a copy to:

Stuart L. Somach  
Somach, Simmons & Dunn  
400 Capitol Mall, Suite 1900  
Sacramento, CA 95814

Authority:

Arthur R. Bullock, General Manager  
Tehama-Colusa Canal Authority  
5513 Highway 162  
P.O. Box 1025  
Willows, CA 95988

with a copy to:

J. Mark Atlas  
Frost, Krup and Atlas  
134 West Sycamore  
Willows, CA 95988

DWR and GCID shall have the obligation of amending this notice list upon the later execution of this MOU by CALFED entities or local water interests.


**15.0 Cooperation.** The parties shall cooperate in carrying out the provisions and intent of this MOU.

**16.0 Effective Date.** This MOU will be effective upon its execution by DWR, as a CALFED agency, and GCID and/or Authority, as local water interests.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding.

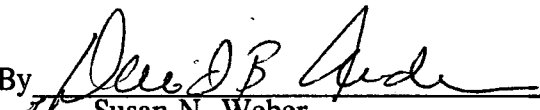
STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES

Dated: 11/16/00

By   
Thomas M. Hannigan  
Director

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY:

Dated: 11/15/01

By   
Susan N. Weber  
Chief Counsel

UNITED STATES BUREAU OF  
RECLAMATION, MID-PACIFIC REGION

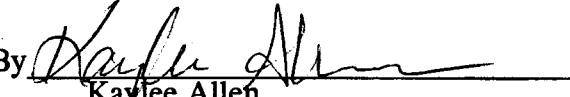
Dated: 11/17/00

By   
Lester Snow  
Regional Director

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY:


UNITED STATES DEPARTMENT  
OF THE INTERIOR

Dated: 11/17/00

By   
Kaylee Allen  
Assistant Regional Solicitor

WESTERN AREA POWER  
ADMINISTRATION

Dated: \_\_\_\_\_

By   
Jerry Toeynes  
Regional Manager


CALIFORNIA DEPARTMENT OF  
FISH AND GAME

Dated: 11/16/00

By   
Robert C. Hight  
Director

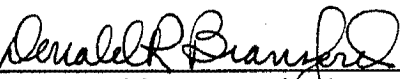
UNITED STATES FISH AND  
WILDLIFE SERVICE

Dated: 11/17/00

By   
Wayne S. White  
State Supervisor

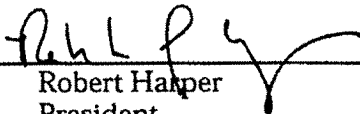
GLENN-COLUSA IRRIGATION DISTRICT

Dated: 11/16/00

By:   
Donald R. Bransford  
President,  
Board of Directors


TEHAMA-COLUSA CANAL AUTHORITY

Dated: 11/16/00


By:   
Robert Harper  
President,  
Board of Directors

ORLAND-UNIT WATER USER'S ASSOCIATION

Dated: 12-12-00


By:   
Zeke Ficher  
President

Dated: 12-12-00

By:   
Albert Wackerman  
Secretary


COLUSA COUNTY

Dated: 12/12/00

By:   
Doug White  
Chair,  
Board of Supervisors

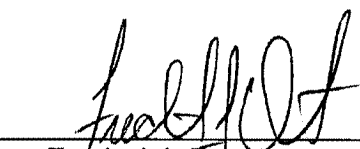
SUTTER MUTUAL WATER COMPANY

Dated: Jan 24, 2001

By:   
Max Sakato  
General Manager

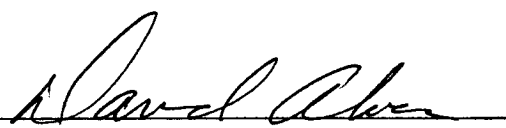
RECLAMATION DISTRICT NO. 108

Dated: 1-10-01

By:   
Frederick Durst  
President,  
Board of Directors


PRINCETON-CORDORA-GLENN I.D.

Dated: 1-15-01

By:   
David Alves  
President,  
Board of Directors

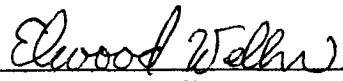
PROVIDENT IRRIGATION DISTRICT

Dated: 1-15-01

By:   
Elwood Weller  
President,  
Board of Directors

PROVIDENT IRRIGATION DISTRICT

Dated: 1-15-01

By:   
Elwood Weller  
President,  
Board of Directors

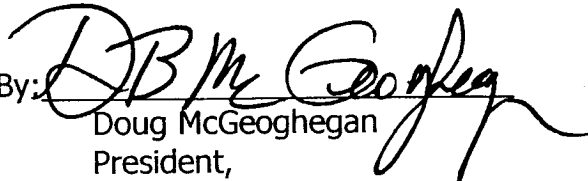
NATOMAS MUTUAL WATER COMPANY

Dated: 2/26/01

By:   
Peter Hughes  
General Manager

MAXWELL IRRIGATION DISTRICT

Dated: 2/12/01

By:   
Doug McGeoghegan  
President,  
Board of Directors